

During the interview of April 26, 2002, Applicants' representative provisionally elected, with traverse, to prosecute Claims 1-9, and 20-30 of Group I for the reasons stated in detail hereinbelow.

### **Formal Matters**

#### **a) Restriction Requirement**

Restriction of Applicants' claimed invention has been required under 35 U.S.C. 121. The Examiner identified the following three (III) patentably distinct groups to be prosecuted separately on the merits, and also required an election of species among these identified groups:

Group I: Claims 1 in part, 2-9, and 20-30 drawn to low irritation nasal compositions for prevention and treatment of cold and influenza viruses comprising pyroglutamic acid and an organic acid in combination with metal salts, and methods of using the low irritation nasal compositions.

Group II: Claims 1 in part, 10-19, and 31-38 drawn to low irritation nasal compositions for prevention and treatment of cold and influenza viruses comprising pyroglutamic acid and an organic acid in combination with metal salts and/or a chelating agent, and methods of using the low irritation nasal compositions.

Group III: Claims 39-53 drawn to low irritation nasal compositions for prevention and treatment of influenza viruses comprising a specifically defined organic acid in combination with a chelating agent or metal salts, and methods of using the low irritation nasal compositions.

Applicants hereby provisionally elect, with traverse, to prosecute the remaining claims drawn to the subject matter of Group I. Remaining Claims 1-9, and 20-30 are drawn to the provisionally elected subject matter of Group I.

Applicants respectfully submit that the restriction requirement in the present application is improper. Even if a claimed invention actually constitutes two or more independent and distinct inventions, the examination of such inventions in a single application must be unduly burdensome on the Examiner in order to support a restriction requirement. An examination of the present application, as a single unrestricted application, would not be unduly burdensome on the Examiner since a thorough art search directed to the subject matter of Group I could also be applied to an examination of the claims drawn to the subject matter of Groups II and III.


In view of the foregoing remarks, Applicants respectfully submit that the Restriction Requirement applied in the present application is improper. However, to advance the prosecution of the present application Applicants have provisionally elected to prosecute remaining Claims 1-9, and 20-30 of Group I.

**Conclusions**

Applicants have made an earnest effort to place their application in proper form and in condition for allowance. WHEREFORE, reconsideration of this application, entry of the amendment presented, withdrawal of the restriction requirement, and allowance of Claims 1-9 and 20-30 are respectfully requested.

Respectfully submitted,

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